

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-1256V

Filed: July 16, 2019

UNPUBLISHED

NORMA KELLER, Personal  
Representative of the Estate of  
ELIZABETH KELLER,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Guillain-  
Barre Syndrome (GBS)

*Nancy Routh Meyers, Ward Black Law, Greensboro, NC, for petitioner.*

*Mollie Danielle Gorney, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES**<sup>1</sup>

**Dorsey**, Chief Special Master:

On August 21, 2018, petitioner, as personal representative of the estate of Elizabeth Keller, filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that Elizabeth Keller suffered Guillain-Barre Syndrome (“GBS”) as a result of an influenza (“flu”) vaccine administered on September 19, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

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<sup>1</sup> The undersigned intends to post this decision on the United States Court of Federal Claims' website. **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On July 10, 2019, a ruling on entitlement was issued, finding petitioner entitled to compensation for GBS. On July 16, 2019, respondent filed a proffer on award of compensation ("Proffer") indicating petitioner should be awarded \$486,583.28 comprised of \$235,000.00 for pain and suffering, \$250,000.00 for the death benefit, and \$1,583.28 for past unreimbursed medical expenses. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.* at 2. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$486,583.28 (comprised of \$235,000.00 for pain and suffering, \$250,000.00 for the death benefit, and \$1,583.28 for past unreimbursed medical expenses) in the form of a check payable to petitioner, Norma Keller, as Personal Representative of the Estate of Elizabeth Keller.**<sup>3</sup> This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>4</sup>

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master

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<sup>3</sup> Petitioner has provided documentation establishing that she is the legal representative of the Estate of Elizabeth Keller. Proffer at 3.

<sup>4</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.



amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**II. Form of the Award**

The parties recommend that compensation provided to petitioner should be made through a lump sum payment of **\$486,583.28**, in the form of a check payable to petitioner as Personal Representative of the Estate of Elizabeth Keller. Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Petitioner has provided documentation establishing that she is the legal representative of the Estate of Elizabeth Keller.

Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

C. SALVATORE D’ALESSIO  
Acting Director  
Torts Branch, Civil Division

CATHARINE E. REEVES  
Deputy Director  
Torts Branch, Civil Division

ALEXIS B. BABCOCK  
Assistant Director  
Torts Branch, Civil Division

/s/ Mollie D. Gorney  
Mollie D. Gorney  
Trial Attorney  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington D.C. 20044-0146  
Tel: (202) 616- 4029  
mollie.d.gorney@usdoj.gov

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